

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

|                    |   |                             |
|--------------------|---|-----------------------------|
| EVGENY FIRSOV,     | ) | Civil No. 23-00429 LEK-KJM  |
|                    | ) |                             |
| Plaintiff,         | ) | FINDINGS AND                |
|                    | ) | RECOMMENDATION TO DENY      |
| vs.                | ) | DEFENDANT CITY AND COUNTY   |
|                    | ) | OF HONOLULU’S BILL OF COSTS |
| CITY AND COUNTY OF | ) |                             |
| HONOLULU,          | ) |                             |
|                    | ) |                             |
| Defendant.         | ) |                             |
| _____              | ) |                             |

FINDINGS AND RECOMMENDATION TO DENY  
DEFENDANT CITY AND COUNTY OF HONOLULU’S BILL OF COSTS

On March 5, 2025, Defendant City and County of Honolulu (“Defendant”) timely filed a Bill of Costs. ECF No. 98. Plaintiff Evgeny Firsov (“Plaintiff”) did not file an opposition or otherwise respond to the Bill of Costs.

The Court finds this matter suitable for disposition without a hearing pursuant to Rule 7.1(c) of the Local Rules of Practice for the United States District Court for the District of Hawaii (“Local Rules”). After carefully considering the Bill of Costs, applicable law, and record in this case, the Court finds and recommends that the district court DENY the Bill of Costs for the reasons set forth below.

BACKGROUND

This case concerns Defendant’s alleged refusal to grant Plaintiff a REAL-ID compliant driver’s license in 2023 due to Plaintiff’s asylum status. ECF No. 91 at 2

(citing ECF No. 43 at 1–3). The operative pleading is the Amended Complaint. ECF No. 43. On October 11, 2024, Defendant filed a motion for summary judgment as to Plaintiff’s Amended Complaint. ECF No. 65. On February 10, 2025, the district court issued an order granting Defendant’s motion for summary judgment. ECF No. 91. On February 25, 2025, the Clerk of Court entered Judgment in favor of Defendant. ECF No. 94. On March 4, 2025, Plaintiff filed a Notice of Appeal to the Ninth Circuit. ECF No. 95.

On March 5, 2025, Defendant filed a Bill of Costs. ECF No. 98

### DISCUSSION

Defendant seeks \$682.00 in taxable costs. *Id.* Federal Rule of Civil Procedure 54 and Local Rule 54.1 govern recovery of taxable costs. As an initial matter, the Court addresses whether it has jurisdiction to review the Bill of Costs, even though Plaintiff filed a notice of appeal before Defendant filed its Bill of Costs. An award of attorneys’ fees and costs is considered a collateral issue over which the district court normally retains jurisdiction even after an appeal. *Leslie v. Grupo ICA*, 198 F.3d 1152, 1160 (9th Cir. 1999). The Court thus finds that it has jurisdiction to review Defendant’s Bill of Costs despite Plaintiff’s appeal.

Local Rule 54.1 states that a Bill of Costs “must be supported by a memorandum setting forth the grounds and authorities supporting the request and an affidavit that the costs claimed are correctly stated, were necessarily incurred, and are allowable by law.” LR54.1(c). In addition, the affidavit must contain “a

representation that counsel met and conferred in an effort to resolve any disputes about the claimed costs and the results of such a conference, or explain why the conference was not held.” *Id.* Local Rule 54.1 also states that “[n]on-compliance with any provision of LR54.1 shall be deemed a waiver of costs.” LR54.1(a).

Here, Defendant’s Bill of Costs does not comply with Local Rule 54.1. First, Defendant does not submit the requisite memorandum setting forth the grounds and authorities supporting its request for costs. Second, Defendant’s counsel’s declaration does not contain a representation that counsel met and conferred with Plaintiff or explain why the conference was not held. The Court thus finds that Defendant fails to comply with Local Rule 54.1(c) and such non-compliance constitutes a waiver of costs. LR54.1(a). Accordingly, the Court recommends that the district court deny the Bill of Costs.

### CONCLUSION

Based on the foregoing, the Court FINDS AND RECOMMENDS that the district court DENY Defendant’s Bill of Costs (ECF No. 98).

IT IS SO FOUND AND RECOMMENDED.

DATED: Honolulu, Hawaii, March 21, 2025.



A handwritten signature in blue ink, appearing to read "K. Mansfield".

Kenneth J. Mansfield  
United States Magistrate Judge

*Firsov v. City and County of Honolulu*, Civil No. 23-00429 LEK-KJM; Findings and Recommendation to Deny Defendant City and County of Honolulu’s Bill of Costs